

AMENDED IN ASSEMBLY AUGUST 12, 2004
AMENDED IN ASSEMBLY SEPTEMBER 2, 2003
AMENDED IN SENATE MAY 20, 2003

SENATE BILL

No. 96

Introduced by Senator Alpert

January 28, 2003

~~An act relating to the payment of claims against the state, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~ *An act to amend Sections 116410 and 116415 of, to add Section 116409 to, and to add a heading as Article 3.5 (commencing with Section 116409) to Chapter 4 of Part 12 of Division 104 of, the Health and Safety Code, relating to drinking water.*

LEGISLATIVE COUNSEL'S DIGEST

SB 96, as amended, Alpert. ~~Claims against the state: appropriation~~
Public water systems: fluoridation.

Existing law, the California Safe Drinking Water Act, requires the State Department of Health Services to administer provisions relating to the regulation of drinking water and public water systems and, among other things, to adopt primary drinking water standards for contaminants in drinking water and to monitor regulated and unregulated contaminants.

Existing law, with certain exceptions, requires the department to establish minimum and maximum fluoridation levels applicable to public water systems with at least 10,000 service connections and requires the department to establish a schedule for the fluoridation of those public water systems based upon the availability of funding related capital and operational costs.

This bill would declare that the purposes of the schedule is not to mandate the order of funding, would exclude from the exemption, systems offered one-year's funding for operation and maintenance.

The bill would declare that these provisions are of statewide concern and preempt local regulation, would authorize voluntary compliance, and would make conforming changes.

~~Existing law requires the California Victim Compensation and Government Claims Board to report to the Legislature when there is no sufficient appropriation available for the payment of a claim against the state allowed by the board.~~

~~This bill would appropriate \$2,445,905.90 from various specified funds to the Executive Officer of the California Victim Compensation and Government Claims Board to pay claims accepted by the board in accordance with a schedule that identifies the funds and accounts from which the payments are to be made.~~

~~The bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: ~~2/3~~ majority. Appropriation: ~~yes~~ no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. (a) The sum of~~
 2 ~~SECTION 1. A heading is added as Article 3.5 (commencing~~
 3 ~~with Section 116409) to Chapter 4 of Part 12 of Division 104 of the~~
 4 ~~Health and Safety Code, to read:~~

5
 6 ~~Article 3.5. Fluoridation of Drinking Water~~

7
 8 ~~SEC. 2. Section 116409 is added to the Health and Safety~~
 9 ~~Code, to read:~~

10 ~~116409. The Legislature finds and declares all of the~~
 11 ~~following:~~

12 ~~(a) Promotion of the public health of Californians of all ages~~
 13 ~~by protection and maintenance of dental health through the~~
 14 ~~fluoridation of drinking water is a paramount issue of statewide~~
 15 ~~concern.~~

16 ~~(b) It is the intent of the Legislature in enacting this article to~~
 17 ~~preempt all local government regulations, ordinances, and~~
 18 ~~initiatives relating to the fluoridation of drinking water by public~~

1 *water systems with 10,000 or more service connections without*
2 *regard to whether the public water system might otherwise be*
3 *exempt from Section 116410 or the requirements of this section*
4 *pursuant to Section 116415.*

5 *(c) It is further the intent of the Legislature in establishing this*
6 *article to decrease the burden the Medi-Cal and the Denti-Cal*
7 *programs place upon the state's limited funds.*

8 *SEC. 3. Section 116410 of the Health and Safety Code is*
9 *amended to read:*

10 116410. (a) ~~It is~~ *Each public water system with at least 10,000*
11 *service connections and with a natural level of fluorides that is less*
12 *than the minimum established in the regulations adopted pursuant*
13 *to this section shall be fluoridated in order to promote the public*
14 *health of Californians of all ages through the protection and*
15 *maintenance of dental health, ~~the~~ a paramount issue of statewide*
16 *concern. The department shall adopt regulations pursuant to*
17 *Chapter 3.5 (commencing with Section 11340) of Division 3 of*
18 *Title 2 of the Government Code, requiring the fluoridation of*
19 *public water systems. By July 1, 1996, and at 10-year intervals*
20 *thereafter, each public water system with at least 10,000 ~~services~~*
21 *service connections shall provide to the department an estimate of*
22 *the total capital costs to install fluoridation treatment. The*
23 *regulations adopted by the department shall take effect on January*
24 *1, 1997.*

25 (b) The regulations shall include, but not be limited to, the
26 following:

27 (1) Minimum and maximum permissible concentrations of
28 fluoride to be maintained by fluoridation of public water systems.

29 (2) The requirements and procedures for maintaining proper
30 concentrations of fluoride, including equipment, testing,
31 recordkeeping, and reporting.

32 (3) Requirements for the addition of fluorides to public water
33 systems in which the natural level of fluorides is less than the
34 minimum level established in the regulations.

35 (4) A schedule for the fluoridation of public water systems with
36 at least 10,000 service connections, based on the lowest capital
37 cost per connection for each system.

38 (c) *The purpose of the schedule established pursuant to*
39 *paragraph (4) of subdivision (b) is not to mandate the order in*
40 *which public water systems receiving funding from private sources*

1 *must fluoridate their water. Available funds may be offered to any*
2 *system on the schedule.*

3 *(d) The estimates provided to the department pursuant to*
4 *subdivision (a) of this section and subdivision (g) of Section*
5 *116415 of the total capital and associated costs and noncapital*
6 *operation and maintenance costs related to fluoridation*
7 *treatments and the similar estimates provided to those sources*
8 *offering to provide the funds set forth in paragraph (1) of*
9 *subdivision (a) of Section 116415 shall be reasonable, as*
10 *determined by the department.*

11 *(e) As used in this section and Section 116415, “costs” means*
12 *only those costs that require an actual expenditure of funds or*
13 *resources, and do not include costs that are intangible or*
14 *speculative, including, but not limited to, opportunity or*
15 *indemnification costs.*

16 *SEC. 4. Section 116415 of the Health and Safety Code is*
17 *amended to read:*

18 *116415. (a) (1) A public water system is not required to*
19 *~~comply with~~ fluoridate pursuant to Section 116410, or the*
20 *regulations adopted thereunder by the department, in either of the*
21 *following situations:*

22 *(A) If the public water system is ~~scheduled~~ listed on the*
23 *schedule to implement a fluoridation program pursuant to*
24 *paragraph (4) of subdivision (b) of Section 116410 and funds are*
25 *not ~~available~~ offered to the public water system sufficient to pay*
26 *the capital and associated costs from any source other than the*
27 *system’s ratepayers, shareholders, local taxpayers, bondholders,*
28 *or any fees or charges levied by the water system.*

29 *(B) If the public water system has ~~obtained~~ been offered the*
30 *capital and associated funds necessary for fluoridation as set forth*
31 *in subparagraph (A) and has completed the installation of a*
32 *fluoridation system, however, in any given fiscal year ~~(July 1–June~~*
33 *~~30)~~ (July 1–June 30, inclusive) funding is not available to the*
34 *public water system sufficient to pay the noncapital operation and*
35 *maintenance costs described in subdivision (g) from any source*
36 *other than the system’s ratepayers, shareholders, local taxpayers,*
37 *bondholders, or any fees or charges levied by the water system. An*
38 *offer to provide funds for one year of noncapital operation and*
39 *maintenance costs shall render a water system unqualified for an*
40 *exemption under this subparagraph.*

(2) Each year the department shall prepare and distribute a list of those water systems that do not qualify for exemption under this section from the fluoridation requirements of Section 116410. This list shall include water systems that have *been offered*, have received, or are expected to receive, sufficient funding for capital and associated costs so as to not qualify for exemption under subparagraph (A) of paragraph (1), and have *either (A) been offered or have* received, or anticipate receiving, sufficient noncapital maintenance and operation funding pursuant to subdivision (g), *or (B) have not yet completed the installation of a fluoridation system*, so that they do not qualify for exemption under subparagraph (B) of paragraph (1).

(3) Any water system that has ~~acquired~~ *been offered* the funds necessary for fluoridation as set forth in subparagraph (A) of paragraph (1), and is not included in the list pursuant to paragraph (2), may elect to exercise the option not to fluoridate during the following fiscal year pursuant to subparagraph (B) of paragraph (1) by so notifying the department by certified mail on or before June 1.

(4) The permit issued by the department for a public water system that is scheduled to implement fluoridation pursuant to paragraph (4) of subdivision (b) of Section 116410 shall specify whether it is required to fluoridate pursuant to Section 116410, or whether it has been granted an exemption pursuant to either subparagraph (A) or subparagraph (B) of paragraph (1).

(b) The department shall enforce Section 116410 and this section, and all regulations adopted pursuant to these sections, unless delegated pursuant to a local primary agreement.

(c) If the owner or operator of any public water system subject to Section 116410 fails, or refuses, to comply with any regulations adopted pursuant to Section 116410, or any order of the department implementing these regulations, the Attorney General shall, upon the request of the department, institute mandamus proceedings, or other appropriate proceedings, in order to compel compliance with the order, rule, or regulation. This remedy shall be in addition to all other authorized remedies or sanctions.

(d) Neither this section nor Section 116410 shall supersede subdivision (b) of Section 116410.

(e) The department shall seek all sources of funding for enforcement of the standards and capital cost requirements

1 established pursuant to this section and Section 116410, including,
2 but not limited to, all of the following:

3 (1) Federal block grants.

4 (2) Donations from private foundations.

5 Expenditures from governmental sources shall be subject to
6 specific appropriation by the Legislature for these purposes.

7 (f) A public water system with less than 10,000 service
8 connections may elect to comply with the standards, compliance
9 requirements, and regulations for fluoridation established
10 pursuant to this section and Section 116410. *A public water system
11 with more than 10,000 service connections that has been granted
12 an exemption pursuant to paragraph (1) of subdivision (a) may
13 also elect to comply with the standards, compliance requirements,
14 and regulations for fluoridation established pursuant to this
15 article and may choose to pay the capital and associated costs and
16 noncapital and maintenance costs set forth in subdivision (g) from
17 any source, including, but not limited to, the public water system's
18 ratepayers, shareholders, local taxpayers, bondholders, or any
19 fees or charges levied by the public water system. Voluntary
20 compliance with the regulations shall be evidenced by an
21 affirmative vote of the governing body of the public water system.*

22 (g) Costs, other than capital costs, incurred in complying with
23 this section and Section 116410, including regulations adopted
24 pursuant to those sections, may be paid from federal grants, or
25 donations from private foundations, for these purposes. Each
26 public water system that will incur costs, other than capitalization
27 costs, as a result of compliance with this section and Section
28 116410, shall provide an estimate to the department of the
29 anticipated total annual operations and maintenance costs related
30 to fluoridation treatment by January 1 of each year.

31 (h) A public water system subject to the jurisdiction of the
32 Public Utilities Commission shall be entitled to recover from its
33 customers all of its capital and associated costs, and all of its
34 operation and maintenance expenses associated with compliance
35 with this section and Section 116410. The Public Utilities
36 Commission shall approve rate increases for an owner or operator
37 of a public water system that is subject to its jurisdiction within 45
38 days of the filing of an application or an advice letter, in
39 accordance with the commission's requirements, showing in
40 reasonable detail the amount of additional revenue required to

recover the foregoing capital and associated costs, and operation and maintenance expenses.
~~two million four hundred forty-five thousand nine hundred five dollars and ninety cents (\$2,445,905.90) is hereby appropriated from the various funds, as specified in subdivision (b), to the Executive Officer of the California Victim Compensation and Government Claims Board for the payment of claims accepted by the board in accordance with the schedule set forth in subdivision (b). Those payments shall be made from the funds and accounts identified in that schedule. In the case of Budget Act item schedules identified in the schedule set forth in subdivision (b), those payments shall be made from the funds appropriated in the item schedule.~~

~~(b) Pursuant to subdivision (a), claims accepted by the California Victim Compensation and Government Claims Board shall be paid in accordance with the following schedule:~~

Total for Fund: California Beverage Container	
—Recycling Fund (0133)	\$11,046.00
Total for Fund: Compensation Insurance	
—Fund (0512)	\$556.00
Total for Fund: Corporation Tax	
—Fund (0084)	\$24,411.58
Total for Fund: Employment Development	
—Contingent Fund (0185)	\$5,266.86
Total for Fund: Flexelect Benefit Fund (0821)	\$348.98
Total for Fund: General Fund (0001)	\$522,879.48
Total for Fund: Health Care Deposit	
—Fund (0912)	\$185.03
Total for Fund: Item 0820-001-0001,	
—Budget Act of 2003	\$1,208.95
Total for Fund: Item 0845-001-0217,	
—Budget Act of 2003	\$1,085.00
Total for Fund: Item 0860-001-0001,	
—Budget Act of 2003	\$2,423.26
Total for Fund: Item 1111-002-0582,	
—Budget Act of 2003	\$1,848.00
Total for Fund: Item 1730-001-0001(1),	
—Budget Act of 2003	\$400.90

1	Total for Fund: Item 1730-001-0001(9);	
2	— Budget Act of 2003	\$1,946.00
3	Total for Fund: Item 1760-001-0001;	
4	— Budget Act of 2003	\$417.00
5	Total for Fund: Item 1760-001-0666(1);	
6	— Budget Act of 2003	\$864.15
7	Total for Fund: Item 1900-015-0830;	
8	— Budget Act of 2002	\$18.86
9	Total for Fund: Item 2660-001-0041;	
10	— Budget Act of 2003	\$132.00
11	Total for Fund: Item 2660-001-0042(1);	
12	— Budget Act of 2003	\$325.26
13	Total for Fund: Item 2660-001-0042(2);	
14	— Budget Act of 2003	\$705.07
15	Total for Fund: Item 2720-001-0044(1);	
16	— Budget Act of 2003	\$11,500.00
17	Total for Fund: Item 2740-001-0001;	
18	— Budget Act of 2003	\$2,180.78
19	Total for Fund: Item 2740-001-0044;	
20	— Budget Act of 2003	\$130.00
21	Total for Fund: Item 2740-001-0044(1);	
22	— Budget Act of 2003	\$1,967.57
23	Total for Fund: Item 2920-001-0001(6);	
24	— Budget Act of 2002	\$3,038.20
25	Total for Fund: Item 3340-001-0001(6);	
26	— Budget Act of 2003	\$1,973.42
27	Total for Fund: Item 3540-001-0001;	
28	— Budget Act of 2003	\$1,858.78
29	Total for Fund: Item 3600-001-0001;	
30	— Budget Act of 2003	\$2,200.00
31	Total for Fund: Item 3860-001-0001;	
32	— Budget Act of 2002	\$1,143.00
33	Total for Fund: Item 4200-103-0001(1);	
34	— Budget Act of 2002	\$63,696.67
35	Total for Fund: Item 4260-001-0001;	
36	— Budget Act of 2003	\$744,299.00
37	Total for Fund: Item 4260-001-0001(1);	
38	— Budget Act of 2003	\$127.00

1	Total for Fund: Item 4260-001-0001(2);	
2	— Budget Act of 2003	\$155.00
3	Total for Fund: Item 4300-003-0001;	
4	— Budget Act of 2003	\$1,200.00
5	Total for Fund: Item 4300-003-0001(1);	
6	— Budget Act of 2003	\$17,199.70
7	Total for Fund: Item 4300-101-0001(2);	
8	— Budget Act of 2003	\$1,358.22
9	Total for Fund: Item 4440-001-0001;	
10	— Budget Act of 2003	\$3,200.00
11	Total for Fund: Item 4440-011-0001(2);	
12	— Budget Act of 2003	\$3,329.96
13	Total for Fund: Item 5100-001-0870;	
14	— Budget Act of 2002	\$140.00
15	Total for Fund: Item 5160-001-0001(A);	
16	— Budget Act of 2002	\$4,648.67
17	Total for Fund: Item 5160-001-0001(1);	
18	— Budget Act of 2003	\$9,802.70
19	Total for Fund: Item 5180-001-0001;	
20	— Budget Act of 2003	\$55.10
21	Total for Fund: Item 5180-001-0001(2);	
22	— Budget Act of 2003	\$984.00
23	Total for Fund: Item 5180-001-0001(3);	
24	— Budget Act of 2003	\$6,480.08
25	Total for Fund: Item 5180-001-0890(25);	
26	— Budget Act of 2003	\$269.34
27	Total for Fund: Item 5240-001-0001;	
28	— Budget Act of 2003	\$25,599.15
29	Total for Fund: Item 5240-001-0001(1);	
30	— Budget Act of 2003	\$24,413.27
31	Total for Fund: Item 5240-001-0001(2);	
32	— Budget Act of 2003	\$25,940.32
33	Total for Fund: Item 5240-001-0001(3);	
34	— Budget Act of 2003	\$10,017.64
35	Total for Fund: Item 6110-001-0001;	
36	— Budget Act of 2002	\$5,482.59
37	Total for Fund: Item 6110-001-0001;	
38	— Budget Act of 2003	\$1,448.18



1	Total for Fund: Item 6610-001-0001(1);	
2	— Budget Act of 2003	\$1,253.03
3	Total for Fund: Item 7100-001-0588;	
4	— Budget Act of 2003	\$1,808.00
5	Total for Fund: Item 7100-001-0870;	
6	— Budget Act of 2003	\$889.00
7	Total for Fund: Item 7100-001-0870(1);	
8	— Budget Act of 2003	\$4,953.00
9	Total for Fund: Item 7100-011-0185;	
10	— Budget Act of 2003	\$4,637.64
11	Total for Fund: Item 7350-001-0001(3);	
12	— Budget Act of 2003	\$17,499.00
13	Total for Fund: Item 8350-001-0001;	
14	— Budget Act of 2002	\$4,515.00
15	Total for Fund: Item 8700-001-0001;	
16	— Budget Act of 2003	\$560.00
17	Total for Fund: Item 8940-001-0001(1);	
18	— Budget Act of 2003	\$195.00
19	Total for Fund: Item 8940-001-0001(5);	
20	— Budget Act of 2003	\$27,174.00
21	Total for Fund: Item 8955-001-0001;	
22	— Budget Act of 2003	\$255.00
23	Total for Fund: Item 8965-001-0001;	
24	— Budget Act of 2003	\$578,299.86
25	Total for Fund: Item 8965-001-0001(1);	
26	— Budget Act of 2003	\$268.75
27	Total for Fund: Motor Vehicle Fuel Account;	
28	— Transportation Tax Fund (0061)	\$3,693.09
29	Total for Fund: Payroll Revolving	
30	— Fund, State (0675)	\$16,332.91
31	Total for Fund: Personal Income Tax	
32	— Fund (0091)	\$260.00
33	Total for Fund: Public Employees' Health	
34	— Care Fund (0822)	\$1,218.38
35	Total for Fund: Public Employees'	
36	— Retirement Fund (0830)	\$634.75
37	Total for Fund: Residential Earthquake	
38	— Recovery Fund, CA (0285)	\$68.28

1	Total for Fund: Tax Relief and Refund	
2	— Account (0027)	\$204,777.59
3	Total for Fund: Unclaimed Property Fund	
4	— (0970)	\$266.31
5	Total for Fund: Unemployment Administration	
6	— Fund (0870)	\$487.56
7	Total for Fund: Unemployment Compensation	
8	— Disability Fund (0588)	\$4,246.29
9	Total for Fund: Unemployment Fund (0871)	\$7,891.00
10	Total for Fund: Welfare Advance	
11	— Fund (0696)	\$11,815.74

12

13 ~~SEC. 2. Funds appropriated in Section 1 of this act for~~
14 ~~payment of Claim No. G537834 shall only be released after~~
15 ~~approval of the claim by the Victim Compensation and~~
16 ~~Government Claims Board. This amount may be reduced by the~~
17 ~~board.~~

18 ~~SEC. 3. This act is an urgency statute necessary for the~~
19 ~~immediate preservation of the public peace, health, or safety~~
20 ~~within the meaning of Article IV of the Constitution and shall go~~
21 ~~into immediate effect. The facts constituting the necessity are:~~

22 ~~In order to pay claims against the state and end hardship to~~
23 ~~claimants as quickly as possible, it is necessary for this act to take~~
24 ~~effect immediately.~~

